

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TELLY LOPEZ PAYNE, *aka T*,

Defendant.

CR 14-13-BU-DLC

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on August 14, 2014. Neither party objected and therefore they are not entitled to *de novo* review of the record. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept Telly Lopez Payne’s guilty

plea after Payne appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered a plea of guilty to one count of conspiracy to distribute heroin in violation of 21 U.S.C. § 846 as set forth in Count I of the Indictment. In exchange for Defendant's plea, the United States has agreed to dismiss Counts II through IV of the Indictment.

I find no clear error in Judge Lynch's Findings and Recommendation (Doc. 22), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that the Motion to Change Plea (Doc. 13) is GRANTED and Telly Lopez Payne is adjudged guilty as charged in Count I of the Indictment.

DATED this 2nd day of September, 2014.



Dana L. Christensen, Chief District Judge
United States District Court